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Attorneys for Plaintiffs
LAUREN RIES and SERENA ALGOZER

(Additional counsel listed on signature page)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LAUREN RIES and SERENA ALGOZER,
individuals on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

ARIZONA BEVERAGES USA LLC,
HORNELL BREWING COMPANY, INC.,
BEVERAGE MARKETING USA, INC., and
FEROLITO, VULTAGGIO & SONS, INC.,

Defendants.

CASE NO. CV 10-01139 RS

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING EARLY NEUTRAL
EVALUATION SESSION**

TO THE COURT, AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:
 THIS STIPULATION is entered into by and between plaintiffs, Lauren Ries and Serena Algozer (“Plaintiffs”), and defendants, Arizona Beverages USA LLC, Hornell Brewing Co., Inc., d/b/a Ferolito Vultaggio & Sons, Inc. and Beverage Marketing USA, Inc. (“Defendants”), collectively referred to herein as the “Parties,” by and through their attorneys of record and pursuant to Civil Local Rule 7-12 and ADR Local Rule 3-3 (c).

WHEREAS, the Alternate Dispute Resolution Program conducted a telephone conference call with the Parties on November 21, 2011, to discuss the status of conducting the Early Neutral Evaluation (“ENE”);

WHEREAS, the deadline to conduct the ENE is December 6, 2011 as per Court order;

WHEREAS there is an ENE currently scheduled to take place on December 5, 2011 at 11:00 am;

WHEREAS, counsel for Plaintiffs and Defendants previously conducted an Early Neutral Evaluation in a related matter, filed in the United States District Court, for the Southern District of California, bearing caption, *Hitt v. Arizona Beverage* (Civ. No., 08-cv-WQH (POR)). See Copy of Order annexed as Exhibit “A”;

WHEREAS the parties’ counsel have conferred and have agreed to seek to be excused or otherwise relieved from the obligation to conduct the ENE in this action given the prior Early Neutral Evaluation conducted in the *Hitt* matter;

NOW, THEREFORE, the Parties jointly request and HEREBY STIPULATE that the parties be excused and/or relieved from conducting an ENE session.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:

DATED: November 21, 2011 SEDGWICK LLP

By: /s/ Andrew J. King
 Kevin J. Dunne (Bar No. 40030)
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BREWING COMPANY, INC. d/b/a FEROLITO,
VULTAGGIO & SONS, INC., and BEVERAGE
MARKETING USA, INC.

DATED: November 21, 2011

By: /s/ Joseph L. "Josh" Tucker (with permission)

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Attorneys for Plaintiffs
LAUREN RIES and SERENA ALGOZER

~~[PROPOSED]~~ **ORDER**

Pursuant to the stipulation of the Parties, and good cause appearing therefor,

IT IS SO ORDERED.

DATED: November 21, 2011



THE HONORABLE RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HEIDI HITT, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

ARIZONA BEVERAGE CO., LLC;
HORNELL BREWING COMPANY, INC.;
FEROLITO VULTAGGIO & SONS INC.,

Defendants.

Civil No. 08-cv-809-WQH (POR)

**ORDER FOLLOWING EARLY
NEUTRAL EVALUATION
CONFERENCE, SETTING RULE 26
COMPLIANCE AND NOTICE OF CASE
MANAGEMENT CONFERENCE**

On April 24, 2009, the Court held an Early Neutral Evaluation. Appearing before the Court were: Richard Baker, Esq., Joseph L. Tucker, Esq., and Anna Dean Farmer, Esq., counsel for Plaintiff; Plaintiff Heidi Hitt; Robert Donovan, Esq., and Meryl Maneker, Esq., counsel for Defendants; and Brad Galbreth, a representative of Defendants. The case did not settle. After consulting with counsel and discussing compliance with Federal Rule of Civil Procedure 26, IT IS HEREBY ORDERED:

1. The Rule 26(f) conference shall be completed on or before **May 20, 2009**. At the Rule 26(f) conference, in addition to the subject matters set forth in Rule 26, the parties shall discuss the following:

- a. Possible settlement options.
- b. Timing for the class certification motion.

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1 c. Bifurcating discovery as between issues related solely to class certification
2 and issues related to the merits.

3 d. Discovery in this case.

4 e. Concept of a national settlement.

5 2. A Discovery Plan shall be lodged with the chambers of the Honorable Louisa S
6 Porter via email to efile_porter@casd.uscourts.gov on or before **June 1, 2009**.

7 3. Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A-D), initial disclosures shall be
8 made on or before **June 12, 2009**.

9 4. Pursuant to Federal Rule of Civil Procedure 16(b), a Case Management Conference
10 shall be held on **June 19, 2009 at 10:30 a.m.** The conference shall be telephonic, with attorneys
11 only. Ms. Maneker shall initiate and coordinate the call.

12 5. Discovery shall be stayed until the Case Management Conference.

13 6. Plaintiff's counsel shall serve a copy of this order on any parties that enter this case
14 hereafter.

15 7. Failure of any counsel or party to comply with this order may result in sanctions.

16 **IT IS SO ORDERED.**

17 DATED: April 28, 2009

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19 LOUISA S PORTER
20 United States Magistrate Judge

21 cc: The Honorable William Q. Hayes
22 all parties
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